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Review of the efficiency of the administrative and financial functioning of the United Nations

Procurement reform

Report of the Secretary-General

I. Sharper definition of exigency

Introduction

1. The present report is submitted pursuant to General Assembly resolution 52/226 A of 31 March 1998. The report of the Secretary-General to the General Assembly on procurement reform dated 27 October 1997 (A/52/534) recommends a review of the financial regulations, rules and established procedures with a view to making amendments that would be responsive to the exigency requirements of peacekeeping and other emergency operations (para. 46). The Assembly, in its resolution 52/226 A of 31 March 1998 (para. 8), urged the Secretary-General to submit to the Assembly a sharper definition of exigency needs at his earliest convenience. An integral component of the proposed review would be a sharper definition of exigency, one that would likely enhance the deliberations of the task force on common services and the overall attempt to implement comprehensive and meaningful procurement reform.

Analysis

2. In the experience of programme managers, the concept of exigency is relative, describing an operational or support requirement that is of such immediate need that it cannot await consummation of the full procurement cycle as now prescribed under the United Nations financial regulations, rules, procedures and practices. As the procurement cycle is integral to the concept of exigency, two aspects of the procurement process are pointed out. The first aspect covers value for money and fairness considerations. It includes identification and definition of a requirement, solicitation of bids or proposals and recommendation for award of a contract. The second aspect includes procedures for completion of all the administrative processes necessary for approval of the procurement, especially at the level of Headquarters in New York. Both aspects are governed at least in part by the Financial Regulations and Rules of the United Nations.

3. The only definition of exigency in the current procurement procedures is made in the context of financial rule 110.19, which allows for the waiver of competitive bidding when a requirement, such as requests for invitations to bid or requests for proposals is deemed incompatible with the exigency of the service. Thus, this definition of exigency provides relief by reducing the procurement lead time with respect to the first aspect of the procurement cycle. However, the dynamics of field procurement are characterized by a set of urgent requirements representing a significant portion of mission requirements, which in most

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cases can withstand the delay of a bidding exercise, but which cannot withstand the multi-layered process of reviews and recommendations necessary for award approval, namely, the second aspect of the procurement process. Delays in the review and approval processes are major contributors to *ex post facto* cases.

4. Therefore, any effort to reduce the number of *ex post facto* cases would require a review of the approval procedures under the second aspect of the procurement cycle, notwithstanding progress that has been and is continuing to be made to reduce procurement lead time by the introduction of new contingent-owned equipment and self-sustainment arrangements, reducing direct support to troops in the field, procurement plans based on the annual budget cycle, systems contracts, initiation of the procurement process in advance of commitment authority and enhanced delegation of authority.

The proposed definition of exigency

5. The requirements that are not covered by the Financial Rules are functionally defined by programme managers at the mission level and at Headquarters as immediate operational requirements, for which the following working definition is proposed: immediate operational requirements are urgent support or operational requirements that are unforseeable or for which there is inadequate planning time, and which, if unfulfilled, would in a short time jeopardize life or United Nations property, result in significant operational difficulties or adverse financial implications or otherwise impede the ability of the mission to fulfil its mandate. A requirement may be classified as exigent if it is deemed to require a waiver of the multi-layered process of review and approval.

Instances of exigencies/immediate operational requirements

6. Field missions are usually established in response to a political emergency, and the resulting political mandate translates into an operational mandate for the urgent establishment, deployment and sometimes redeployment of a large number of personnel, with all the requisite support services. Given budgetary realities and the temporary nature of mission mandates, long-term contingency planning becomes almost impossible. As a result, missions have very little time to meet operational needs. Thus exigencies are inherent to everyday field operations, and can be mitigated only by better planning and more efficient administrative procedures. The aforementioned dynamism of field operations that gives rise to exigencies can occur any time during the mission life cycle, but are exacerbated during the following periods:

(a) Mission inception: The issuance of a new mission mandate translates into the deployment of a significant number of troops and civilian personnel within a very short time-frame. This situation creates an exigent requirement for all life-supporting goods and services, such as contracts for deployment of military and civilian personnel, start-up kits, accommodations, petroleum, oil and lubricants, water, food rations, logistical support services, medicine, observation equipment and the like, in addition to essential support equipment such as generators and transportation and communications equipment. Indeed, a case could be made that most support requirements during the first three to six months of a mission's existence are immediate operational requirements.

(b) Mission expansion: A mission's expansion could be the result of a significant change in its mandate followed by the introduction of a substantial number of additional personnel and/or the undertaking of unplanned or initially unfunded operations such as electoral monitoring, demobilization and the like. In any event, during this period a mission experiences to a lesser degree similar dynamics as during its inception phase. Therefore, the exigencies are for similar goods and services, but in this case are related to the redeployment of troops and the setting up of new outposts or outstations with all the requisite support services, or the establishment of support for activities different from those of the start-up.

(c) Liquidation: Liquidation periods are set by political mandate and are often subject to change, thus providing a limited time-frame for adjustment. This creates an exigency to meet logistical requirements related to troop repatriation, repatriation of United Nations- and contingent-owned equipment and camp closures. The related requirements include, but are not limited to, shipping and freight services, air charters, material-handling equipment and ground transportation.

7. In summary, what is characteristic of immediate operational requirements is that they are unforeseen, there is inadequate planning time or they are not funded in a timely manner, they are always urgent and they have an adverse operational and/or financial impact if not met in a timely manner.

Conclusion

8. The Secretary-General trusts that this expanded definition of exigency will assist in eventually bringing about meaningful procurement reform and implementation of the recommendation of the Office of Internal Oversight Services, contained in its report dated 5 March 1998 (A/52/813), that special emergency rules and procedures be developed to meet the requirements of the emergency activities of the Department of Humanitarian Affairs and to address related issues concerning personnel and procurement arrangements (annex, para. 18). This is equally applicable to peacekeeping operations and other offices as envisaged in the same report and General Assembly resolution 52/226 A.

II. Guidelines on methods of inviting bids

9. In its report for the biennium ending 31 December 1995,[1] the Board of Auditors expressed concern at the lack of open tendering. The Administration explained that open tendering generally required significant lead times, was costly and should, therefore, be used on a selective basis. The Board, however, was of the view that the issue of short lead times should be addressed by improved procurement planning methods and recommended that the Procurement Division establish detailed guidelines on methods of inviting bids covering all aspects of procurement.

10. It is very much recognized that advance procurement planning by requisitioning offices and the timely submission of their requirements to the Procurement Division would enable the Division better to plan its own work programme and to enhance the overall efficiency and effectiveness of procurement. However, owing to the nature of United Nations operations, especially those pertaining to peacekeeping missions, it should be recognized that advance procurement planning is not possible in all cases. Nevertheless, planning is an important aspect of procurement and has therefore become part of the common services initiatives currently in progress at Headquarters. As such, the methods of inviting bids should be considered in the overall context of procurement reform involving the participation of various funds and programmes. Accordingly, a sub-Working group on common services procurement has been established and is reviewing this matter with a view to making recommendations. The review would entail establishing appropriate bidding cycles and methods of tendering so that programme managers will be guided by them when submitting their requirements to the Procurement Division.

11. In conclusion, it should be noted that procurement is part of the reform process and any changes made in that process should be refined on an ongoing basis to ensure efficiency, accountability and controls.

III. Revision of United Nations Financial Regulations and Rules pertaining to procurement

12. With reference to paragraph 46 of the report of the Secretary-General on procurement reform (A/52/534) and paragraph 4 of General Assembly resolution 52/226 A, it should be noted that it is not intended to change the Financial Regulations but to build on them and to review the Financial Rules pertaining to procurement in order to simplify them and make them clearer, relevant, user-friendly and practical, taking into consideration the experience gained over the past several years.

13. In view of the number of issues raised in the recent deliberations of the Fifth Committee, the subject of reviewing the Financial Rules would require revisiting to ensure that the concerns of the Committee are addressed. Any refinements or changes would have long-term implications for the United Nations system as a whole. Therefore, the participation of the procurement entities of the various funds and programmes is considered necessary for the review process. Furthermore, as the review of the Financial Rules is very much an integral part of the common services initiatives and of reform of the Organization, it has been considered necessary also to assign this task to a sub-working group on common services procurement to review the issue and to report thereon. The Secretary-General expects to report on the matter to the General Assembly at its fifty-fourth session.

Notes

[1] *Official Records of the General Assembly, Fifty-first Session, Supplement No. 5* (A/51/5), vol. I, sect. II, paras. 101-103.